



General Assembly

February Session, 2008

**Amendment**

LCO No. 5488

**\*HB0559805488HDO\***

Offered by:

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REP. SPALLONE, 36<sup>th</sup> Dist.  
REP. JANOWSKI, 56<sup>th</sup> Dist.  
REP. GENTILE, 104<sup>th</sup> Dist.  
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REP. O'ROURKE, 32<sup>nd</sup> Dist.  
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To: Subst. House Bill No. 5598

File No. 298

Cal. No. 165

**"AN ACT CONCERNING THE DEPARTMENT OF PUBLIC UTILITY CONTROL."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 16-2 of the 2008 supplement to the general statutes  
4 is repealed and the following is substituted in lieu thereof (*Effective*  
5 *from passage*):

6 (a) There shall continue to be a Public Utilities Control Authority,

7 which shall consist of five electors of this state, appointed by the  
8 Governor with the advice and consent of both houses of the General  
9 Assembly. The mission of said authority shall be to ensure that public  
10 service companies are regulated consistent with the public interest and  
11 provide safe, efficient, high-quality utility services, with responsive  
12 customer service, at the lowest reasonable cost to ratepayers. Not more  
13 than three members of said authority in office at any one time shall be  
14 members of any one political party. On or before July 1, 1983, and  
15 quadrennially thereafter, the Governor shall appoint three members to  
16 the authority and on or before July 1, 1985, and quadrennially  
17 thereafter, the Governor shall appoint two members. All such  
18 members shall serve for a term of four years. The procedure prescribed  
19 by section 4-7 of the 2008 supplement to the general statutes shall  
20 apply to such appointments, except that the Governor shall submit  
21 each nomination on or before May first, and both houses shall confirm  
22 or reject it before adjournment sine die. The commissioners shall be  
23 sworn to the faithful performance of their duties.

24 (b) The authority shall elect a chairperson and vice-chairperson each  
25 June for one-year terms starting on July first of the same year. The vice-  
26 chairperson shall perform the duties of the chairperson in his absence.

27 (c) Any matter coming before the authority may be assigned by the  
28 chairperson to a panel of three commissioners, not more than two of  
29 whom shall be members of the same political party. Except as  
30 otherwise provided by statute or regulation, the panel shall determine  
31 whether a public hearing shall be held on the matter, and [may  
32 designate one or two of its members to conduct such hearing or] shall  
33 appoint an examiner to ascertain the facts and report thereon to the  
34 panel. The decision of the panel, if unanimous, shall be the decision of  
35 the authority. If the decision of the panel is not unanimous, the matter  
36 shall be referred to the entire authority for decision.

37 (d) The commissioners of the authority shall serve full time and  
38 shall make full public disclosure of their assets, liabilities and income  
39 at the time of their appointment, and thereafter each member of the

40 authority shall make such disclosure on or before July thirtieth of each  
41 year of such member's term, and shall file such disclosure with the  
42 office of the Secretary of the State. Each commissioner shall receive  
43 annually a salary equal to that established for management pay plan  
44 salary group seventy-five by the Commissioner of Administrative  
45 Services, except that the chairperson shall receive annually a salary  
46 equal to that established for management pay plan salary group  
47 seventy-seven.

48 (e) To insure the highest standard of public utility regulation, on  
49 and after October 1, 2007, any newly appointed commissioner of the  
50 authority shall have education or training and three or more years of  
51 experience in one or more of the following fields: Economics,  
52 engineering, law, accounting, finance, utility regulation, public or  
53 government administration, consumer advocacy, business  
54 management, and environmental management. On and after July 1,  
55 1997, at least three of these fields shall be represented on the authority  
56 by individual commissioners at all times. Any time a commissioner is  
57 newly appointed, at least one of the commissioners shall have  
58 experience in utility customer advocacy.

59 (f) The chairperson of the authority, with the consent of two or more  
60 other members of the authority, shall appoint an executive director,  
61 who shall be the chief administrative officer of the Department of  
62 Public Utility Control. The executive director shall be supervised by  
63 the chairperson of the authority, serve for a term of four years and  
64 annually receive a salary equal to that established for management pay  
65 plan salary group seventy-two by the Commissioner of Administrative  
66 Services. The executive director (1) shall conduct comprehensive  
67 planning with respect to the functions of the department; (2) shall  
68 coordinate the activities of the department; (3) shall cause the  
69 administrative organization of the department to be examined with a  
70 view to promoting economy and efficiency; (4) shall, in concurrence  
71 with the chairperson of the authority, organize the department into  
72 such divisions, bureaus or other units as he deems necessary for the  
73 efficient conduct of the business of the department and may from time

74 to time abolish, transfer or consolidate within the department, any  
75 division, bureau or other units as may be necessary for the efficient  
76 conduct of the business of the department, provided such organization  
77 shall include any division, bureau or other unit which is specifically  
78 required by the general statutes; (5) shall, for any proceeding on a  
79 proposed rate amendment in which staff of the department are to be  
80 made a party pursuant to section 16-19j, determine which staff shall  
81 appear and participate in the proceedings and which shall serve the  
82 members of the authority; (6) may enter into such contractual  
83 agreements, in accordance with established procedures, as may be  
84 necessary for the discharge of his duties; and (7) may, subject to the  
85 provisions of section 4-32, and unless otherwise provided by law,  
86 receive any money, revenue or services from the federal government,  
87 corporations, associations or individuals, including payments from the  
88 sale of printed matter or any other material or services. The executive  
89 director shall require the staff of the department to have expertise in  
90 public utility engineering and accounting, finance, economics,  
91 computers and rate design. Subject to the provisions of chapter 67 and  
92 within available funds in any fiscal year, the executive director may  
93 appoint a secretary, and may employ such accountants, clerical  
94 assistants, engineers, inspectors, experts, consultants and agents as the  
95 department may require.

96 (g) No member of the authority or employee of the department  
97 shall, while serving as such, have any interest, financial or otherwise,  
98 direct or indirect, or engage in any business, employment, transaction  
99 or professional activity, or incur any obligation of any nature, which is  
100 in substantial conflict with the proper discharge of his duties or  
101 employment in the public interest and of his responsibilities as  
102 prescribed in the laws of this state, as defined in section 1-85; provided,  
103 no such substantial conflict shall be deemed to exist solely by virtue of  
104 the fact that a member of the authority or employee of the department,  
105 or any business in which such a person has an interest, receives utility  
106 service from one or more Connecticut utilities under the normal rates  
107 and conditions of service.

108 (h) No member of the authority or employee of the department shall  
109 accept other employment which will either impair his independence of  
110 judgment as to his official duties or employment or require him, or  
111 induce him, to disclose confidential information acquired by him in the  
112 course of and by reason of his official duties.

113 (i) No member of the authority or employee of the department shall  
114 wilfully and knowingly disclose, for pecuniary gain, to any other  
115 person, confidential information acquired by him in the course of and  
116 by reason of his official duties or employment or use any such  
117 information for the purpose of pecuniary gain.

118 (j) No member of the authority or employee of the department shall  
119 agree to accept, or be in partnership or association with any person, or  
120 a member of a professional corporation or in membership with any  
121 union or professional association which partnership, association,  
122 professional corporation, union or professional association agrees to  
123 accept any employment, fee or other thing of value, or portion thereof,  
124 in consideration of his appearing, agreeing to appear, or taking any  
125 other action on behalf of another person before the authority, the  
126 Connecticut Siting Council, the Office of Policy and Management or  
127 the Commissioner of Environmental Protection.

128 (k) No commissioner of the authority shall, for a period of one year  
129 following the termination of his or her service as a commissioner,  
130 accept employment: (1) By a public service company or by any person,  
131 firm or corporation engaged in lobbying activities with regard to  
132 governmental regulation of public service companies; (2) by a certified  
133 telecommunications provider or by any person, firm or corporation  
134 engaged in lobbying activities with regard to governmental regulation  
135 of persons, firms or corporations so certified; or (3) by an electric  
136 supplier or by any person, firm or corporation engaged in lobbying  
137 activities with regard to governmental regulation of electric suppliers.  
138 No such commissioner who is also an attorney shall in any capacity,  
139 appear or participate in any matter, or accept any compensation  
140 regarding a matter, before the authority, for a period of one year

141 following the termination of his or her service as a commissioner.

142 Sec. 502. (NEW) (*Effective from passage*) In any proceeding, other than  
143 a rate case proceeding held pursuant to section 16-19 of the general  
144 statutes, before the Department of Public Utility Control involving  
145 more than five hundred thousand dollars, the department shall, as part  
146 of the proceeding, other than a rate case proceeding held pursuant to  
147 section 16-19 or 16-19b of the general statutes, or a reconciliation of rate  
148 components, including, but not limited to, the competitive transition  
149 assessment, systems benefits charge, generation services charge and  
150 transmission adjustment or charge and federally mandated congestion  
151 charges, conduct an analysis to determine whether its decision would  
152 have an overall negative cost impact on ratepayers. For any decision  
153 determined to have a negative cost impact on ratepayers, the  
154 department shall report this fact to the president pro tempore of the  
155 Senate, the speaker of the House of Representatives and the joint  
156 standing committee of the General Assembly having cognizance of  
157 matters relating to energy at least sixty days before taking any action  
158 or requiring any action that implements the ruling, provided the sixty-  
159 day period may be shortened or eliminated if the department  
160 determines that there is a reliability emergency.

161 Sec. 503. Section 16-19e of the 2008 supplement to the general  
162 statutes is repealed and the following is substituted in lieu thereof  
163 (*Effective from passage*):

164 (a) In the exercise of its powers under the provisions of this title,  
165 including, but not limited to, the [Department of Public Utility Control  
166 shall examine and regulate] examination and regulation of the transfer  
167 of existing assets and franchises, the expansion of the plant and  
168 equipment of existing public service companies, the operations and  
169 internal workings of public service companies and the establishment of  
170 the level and structure of rates, the Department of Public Utility  
171 Control shall act in accordance with the following principles: (1) That  
172 there is a clear public need for the service being proposed or provided;  
173 (2) that the public service company shall be fully competent to provide

174 efficient and adequate service to the public in that such company is  
175 technically, financially and managerially expert and efficient; (3) that  
176 the department and all public service companies shall perform all of  
177 their respective public responsibilities consistent with the public  
178 interest with economy, efficiency and care for public safety and energy  
179 security, and so as to promote economic development within the state  
180 with consideration for energy and water conservation, energy  
181 efficiency and the development and utilization of renewable sources of  
182 energy and for the prudent management of the natural environment;  
183 (4) that the level and structure of rates be just and reasonable and  
184 sufficient, but no more than sufficient, to allow public service  
185 companies to cover their operating costs including, but not limited to,  
186 appropriate staffing levels, and capital costs, to attract needed capital  
187 and to maintain their financial integrity, and yet provide appropriate  
188 protection to the relevant public interests, both existing and  
189 foreseeable which shall include, but not be limited to, reasonable costs  
190 of security of assets, facilities and equipment that are incurred solely  
191 for the purpose of responding to security needs associated with the  
192 terrorist attacks of September 11, 2001, and the continuing war on  
193 terrorism; (5) that the level and structure of rates charged customers  
194 shall reflect prudent and efficient management of the franchise  
195 operation; and (6) that the rates, charges, conditions of service and  
196 categories of service of the companies not discriminate against  
197 customers which utilize renewable energy sources or cogeneration  
198 technology to meet a portion of their energy requirements.

199 (b) The Department of Public Utility Control shall promptly  
200 undertake a separate, general investigation of, and shall hold at least  
201 one public hearing on new pricing principles and rate structures for  
202 electric companies and for gas companies to consider, without  
203 limitation, long run incremental cost of marginal cost pricing, peak  
204 load or time of day pricing and proposals for optimizing the utilization  
205 of energy and restraining its wasteful use and encouraging energy  
206 conservation, and any other matter with respect to pricing principles  
207 and rate structures as the department shall deem appropriate. The

208 department shall determine whether existing or future rate structures  
209 place an undue burden upon those persons of poverty status and shall  
210 make such adjustment in the rate structure as is necessary or desirable  
211 to take account of their indigency. The department shall require the  
212 utilization of such new principles and structures to the extent that the  
213 department determines that their implementation is in the public  
214 interest and necessary or desirable to accomplish the purposes of this  
215 provision without being unfair or discriminatory or unduly  
216 burdensome or disruptive to any group or class of customers, and  
217 determines that such principles and structures are capable of yielding  
218 required revenues. In reviewing the rates and rate structures of electric  
219 and gas companies, the department shall take into consideration  
220 appropriate energy policies, including those of the state as expressed  
221 in subsection (c) of this section. The authority shall issue its initial  
222 findings on such investigation by December 1, 1976, and its final  
223 findings and order by June 1, 1977; provided that after such final  
224 findings and order are issued, the department shall at least once every  
225 two years undertake such further investigations as it deems  
226 appropriate with respect to new developments or desirable  
227 modifications in pricing principles and rate structures and, after  
228 holding at least one public hearing thereon, shall issue its findings and  
229 order thereon.

230 (c) The Department of Public Utility Control shall consult at least  
231 once each year with the Commissioner of Environmental Protection,  
232 the Connecticut Siting Council and the Office of Policy and  
233 Management, so as to coordinate and integrate its actions, decisions  
234 and policies pertaining to gas and electric companies, so far as  
235 possible, with the actions, decisions and policies of said other agencies  
236 and instrumentalities in order to further the development and  
237 optimum use of the state's energy resources and conform to the  
238 greatest practicable extent with the state energy policy as stated in  
239 section 16a-35k, taking into account prudent management of the  
240 natural environment and continued promotion of economic  
241 development within the state. In the performance of its duties, the

242 department shall take into consideration the energy policies of the  
243 state as expressed in this subsection and in any annual reports  
244 prepared or filed by such other agencies and instrumentalities, and  
245 shall defer, as appropriate, to any actions taken by such other agencies  
246 and instrumentalities on matters within their respective jurisdictions.

247 (d) The Commissioner of Environmental Protection, the  
248 Commissioner of Economic and Community Development, the  
249 Connecticut Siting Council and the Office of Policy and Management  
250 shall be made parties to each proceeding on a rate amendment  
251 proposed by a gas, electric or electric distribution company based  
252 upon an alleged need for increased revenues to finance an expansion  
253 of capital equipment and facilities, and shall participate in such  
254 proceedings to the extent necessary.

255 (e) The Department of Public Utility Control, in a proceeding on a  
256 rate amendment proposed by an electric distribution company based  
257 upon an alleged need for increased revenues to finance an expansion  
258 of the capacity of its electric distribution system, shall determine  
259 whether demand-side management would be more cost-effective in  
260 meeting any demand for electricity for which the increase in capacity is  
261 proposed.

262 (f) The provisions of this section shall not apply to the regulation of  
263 a telecommunications service which is a competitive service, as  
264 defined in section 16-247a, or to a telecommunications service to which  
265 an approved plan for an alternative form of regulation applies,  
266 pursuant to section 16-247k.

267 (g) The department may, upon application of any gas or electric  
268 public service company, which has, as part of its existing rate plan, an  
269 earnings sharing mechanism, modify such rate plan to allow the gas or  
270 electric public service company, after a hearing that is conducted as a  
271 contested case, in accordance with chapter 54, to include in its rates the  
272 reasonable costs of security of assets, facilities, and equipment, both  
273 existing and foreseeable, that are incurred solely for the purpose of

274 responding to security needs associated with the terrorist attacks of  
275 September 11, 2001, and the continuing war on terrorism.

276 Sec. 504. (NEW) (*Effective from passage*) When the consumer  
277 protection division of the Department of Public Utility Control  
278 determines a pattern or trend of complaints of a similar nature  
279 regarding a public service company, the department shall initiate an  
280 uncontested case proceeding to consider the complaints and determine  
281 a resolution to the complaints within forty-five days. On or before  
282 February 15, 2009, and annually thereafter, the department shall report  
283 any trends and actions relative to such complaints to the joint standing  
284 committee of the General Assembly having cognizance of matters  
285 relating to energy.

286 Sec. 505. (NEW) (*Effective from passage*) On or before July 1, 2008, and  
287 in subsequent calendar years as necessary pursuant to this section, the  
288 Department of Public Utility Control shall, through a contested case  
289 proceeding, determine the cost of service, including a reasonable rate  
290 of return on equity, of each power generation plant in the state that  
291 uses uranium fuel or coal to produce all or part of its electric output.  
292 The department shall conduct a separate contested case proceeding for  
293 each such power generation plant. Each such power generation plant  
294 shall be entitled to, but not required to, participate in the investigative  
295 proceeding related to its cost of service and in the absence of such  
296 participation, the department shall develop the cost of service using  
297 reasonable estimates."